



# TLE Information Toolkit

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*April, 2017*

Cover photo courtesy  
[Winnipegmag.com](http://Winnipegmag.com)

*On March 17, 2015, the Association of Manitoba Municipalities (AMM), the Treaty Relations Commission of Manitoba (TRCM) and the Treaty Land Entitlement Committee (TLEC) of Manitoba signed a Memorandum of Understanding (MOU) called “Widokodadiwin” or “We All Work Together.”*

*The MOU is to “establish and maintain a mutually beneficial partnership aimed at enhancing the knowledge of First Nations and Canadians within Manitoba regarding the significance of the Treaties, Treaty Land Entitlement (TLE) and the Treaty relationship.”*

## The stated objectives of the MOU include the following:

1. The parties commit to participating in an on-going dialogue to establish a more open and effective TLE process in Manitoba;
2. During the term of the partnership, and to the extent possible, the parties will undertake the following:
  - b) Review the established TLE-related municipal services agreements between First Nations and municipalities in Manitoba and other provinces;
  - c) Draft template agreements to assist municipalities and First Nations involved in TLE-related and other negotiations;
  - d) Establish and communicate points of contact in the Federal and Provincial Government who can assist First Nations and municipalities with the TLE and other processes.

To undertake the technical work required to fulfil these objectives, in particular the development of the products specific to fulfilling “2b” above, the parties established a Working Group and invited the participation of a number of technicians working within the field, who have included the following:

Chris Henderson, Executive Director, TLEC  
Denys Volkov, Director of Advocacy and Communications, AMM  
Brenna Sutherland, Executive Assistant, TRCM  
Sherry Smith, Operations Manager, TRCM  
Laren Bill, Independent Chairperson, Implementation Monitoring Committee  
Gord Bluesky, Lands & Resources Manager, Brokenhead Ojibway Nation  
Tim Daniels, Chief Executive Officer, Arrowhead Development Corporation  
Bob Green, Special Projects, Swan Lake First Nation  
Cindy Kellendonk, Councillor, Rural Municipality of Lac du Bonnet  
Irene Linklater, Implementation Advisor, TLEC  
Doug Marks, Deputy Reeve, Rural Municipality of Lac du Bonnet  
Nathan McCorrister, Executive Director, TLE Implementation Unit, Peguis First Nation  
Chelsea Silva, Manager, Agreements Management & Aboriginal Consultation, MANA  
Martin Egan (Chairperson), Director General, Treaty Land Entitlement Completion, INAC

*With special thanks to former Treaty Commissioner James B. (Jamie) Wilson*



Photo courtesy of the  
Winnipeg Free Press

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# LETTER FROM INDIGENOUS AND NORTHERN AFFAIRS CANADA



Ministre des Affaires  
autochtones et du Nord



Minister of Indigenous and  
Northern Affairs

Ottawa, Canada K1A 0H4

Greetings:

I am honoured to provide my support on behalf of the Government of Canada for the Community Accord template and the Frequently Asked Questions document. This project is a great example of the power of partnerships and of reconciliation in action.

These tools were produced through the efforts of the Working Group established under the 2015 Partnership Agreement between the Treaty Land Entitlement Committee of Manitoba, the Association of Manitoba Municipalities and the Treaty Relations Commissioner of Manitoba. I am pleased that the Department played a role in helping to facilitate this work.

As Minister of Indigenous and Northern Affairs, I am committed to renewing the relationship between Canada and Indigenous Peoples and supporting the work of reconciliation. As we approach the 150<sup>th</sup> Anniversary of Confederation, we are seeking to move beyond the colonialism of the past.

The Treaty Land Entitlement process, in fulfilling long outstanding Treaty obligations to Treaty Land Entitlement First Nations, provides an opportunity for Manitoba First Nations to select and/or acquire new reserve lands. Increasingly, Treaty Land Entitlement First Nations are choosing locations that allow them to better participate in the economy.

Partnerships between First Nation governments and municipal governments, such as those envisioned through the Community Accord, support the shared prosperity that the numbered Treaties were intended to create.

Our strong belief is that this process will benefit both First Nations and Canada. Such reconciliation in action can only make us all stronger.

Sincerely,

A handwritten signature in blue ink that reads "Carolyn Bennett".

Hon. Carolyn Bennett, M.D., P.C., M.P.

Canada



## LETTER FROM MANITOBA INDIGENOUS AND MUNICIPAL RELATIONS



**MINISTER  
OF INDIGENOUS AND MUNICIPAL RELATIONS**

Room 301  
Legislative Building  
Winnipeg, Manitoba CANADA  
R3C 0V8

**Greetings:**

**Re: Letter of Endorsement – MDSA Working Group**

As a follow-up to the ongoing efforts of the Municipal Development Service Agreement (MDSA) Working Group, I am pleased to confirm Manitoba's continued support towards its collaborative efforts with the Association of Manitoba Municipalities, the Treaty Land Entitlement Committee of Manitoba Inc., Manitoba's Entitlement First Nations and the Government of Canada.

The recent development of an information package is the latest representation of the Working Group's efforts and is consistent with the commitments outlined in our Memorandum of Understanding which was signed on March 17, 2015. The information package provides for a list of important tools that will aid in our advancement of the Treaty Land Entitlement implementation process and serves as a valuable contribution towards this collaborative relationship.

The Province's participation in the MDSA Working Group reaffirms its obligations towards the implementation of Treaty Land Entitlement which remains an important focus for the provincial government. I look forward to future opportunities that lie ahead as this important work progresses.

Sincerely,

Honourable Eileen Clarke  
Minister

Attachments

## LETTER FROM AMM AND TLEC



On behalf of the Association of Manitoba Municipalities (AMM) and the Treaty Land Entitlement Committee (TLEC) of Manitoba, we are honoured to present the enclosed Information Toolkit on the Treaty Land Entitlement (TLE) process in Manitoba.

The primary purpose of this toolkit is to demystify the misconceptions of “Indian Reserves” as well as clearly explain how the Government of Canada sets lands aside as “Reserve” land under the TLE process and what the TLE process could mean for municipalities. Our primary target audience is non-First Nation peoples who live and work within the various communities across our province.

This work came about through an on-going dialogue to establish a more open and effective TLE process in Manitoba with the signing of the *Widokodadiwin* (“We All Work Together”) Memorandum of Understanding between the AMM and TLEC in March 2015.

In accordance with this agreement, a technical working group consisting of First Nations, municipal, provincial and federal partners, was formed in order to review TLE-related municipal service agreements between First Nations and municipalities, draft template agreements to assist municipalities, and identify barriers to effective collaboration between First Nations and municipalities.

Based on this collaboration, this Information Toolkit includes a Community Accord template and a Frequently Asked Questions TLE Factsheet to further support municipalities and First Nation communities throughout the TLE process. The Community Accord template is intended to be used as a starting point in discussions between First Nations and municipalities, while the FAQ TLE Factsheet provides information in response to commonly asked questions and concerns about the historical and current context of TLE, land management and government jurisdiction. We encourage all interested parties to use these newly-developed resources whenever possible.

Going forward, our organizations will continue to work together in order to foster stronger bonds between our communities based on greater respect, trust and mutual understanding.



“Going forward, our organizations will continue to work together in order to foster stronger bonds between our communities based on greater respect, trust and mutual understanding.”

Sincerely,



A handwritten signature in black ink that reads "Chris Goertzen".

Chris Goertzen  
President  
Association of Manitoba Municipalities



A handwritten signature in black ink that reads "Nelson Genaille".

Chief Nelson Genaille  
President  
Treaty Land Entitlement Committee  
of Manitoba

## COMMUNITY ACCORD

# COMMUNITY ACCORD

Made this \_\_\_\_\_ Day of \_\_\_\_\_ 20\_\_\_\_\_

BETWEEN THE GOVERNMENTS OF

\_\_\_\_\_ FIRST NATION (“THE FIRST NATION GOVERNMENT”)

AND

\_\_\_\_\_ (“THE MUNICIPAL GOVERNMENT”)

## WHEREAS:

All citizens of the First Nation and the Municipality trace their origin to societies of different cultural traditions, beliefs and values, and have created, or have had created on their behalf, distinct local governing institutions; and

The First Nation is a signatory of Treaty No. \_\_\_\_\_, and the Municipality is located within the Treaty No. \_\_\_\_\_ territory. As such, we are all Treaty People; and

In recognition that the land entitlement provisions of the Treaty remain outstanding, the First Nation has signed a settlement agreement with the Crown in right of both Canada and Manitoba, which provides various implementation procedures aimed at fulfilling the entitlement; and

The First Nation Government and the Municipal Government (“the Parties”) deem recognition, respect, co-operation, partnership and reconciliation to be the foundation of their communities’ common good. Paramount is the respect for and appreciation of each other’s diverse backgrounds, and their respective rights and jurisdictions, and therefore agree as follows:

### Article 1 - Mutual Recognition

1.1 The Municipal Government recognizes the First Nations people as the original inhabitants of this land, acknowledges their Traditional Territory and, as we are all Treaty People, respects the terms and intent of Treaty No. \_\_\_\_\_. In addition, the Municipal Government recognizes the inherent right for self-government and recognizes, acknowledges and respects the Chief and Council as the duly elected and properly constituted governing authority for the First Nation and its citizens (OPTIONAL: , and recognizes the authority of the First Nation’s Land Code governing its reservelands).

1.2 The First Nation Government recognizes, acknowledges and respects the Municipal council as a duly elected and properly constituted Municipal Government established under the provisions of the *Manitoba Municipal Act (C.C.S.M. c. M225)* and having all of the authority and responsibilities of a Manitobamunicipality.

1.3 The Parties each have distinct authorities and responsibilities towards their citizens and residents, and acknowledge that the interests of all persons living in the two communities are best served by working together in the spirit of cooperation.

#### Article 2 - Relationship Building

2.1 The Parties agree that they will meet regularly and formally at least once per year, to promote and encourage open and constructive dialogue.

2.2 The Parties will form working groups, as needed from time to time, to explore and initiate mutually beneficial activities designed to facilitate economic diversification, to protect cultural heritage resources, to promote community growth, to increase investment, to generate employment, and/or to pursue other agreed-to objectives.

2.3 The Parties are committed to open communication based on the principle of respect in order to address questions or concerns that may arise.

2.4 From time to time, as necessary based on mutually agreed-to objectives, joint meetings of the Parties may be open to the public to inform and to receive community input and feedback. These meetings shall be co-chaired by one member from each of the Parties.

#### Article 3 - Dispute Resolution

3.1 The Parties are committed to make bona fide efforts to resolve any disputes arising between them by amicable negotiations, and by providing frank, candid and timely disclosure of all relevant facts, information and documents to facilitate those negotiations.

3.2 Where a dispute between the Parties arises, either party may, at any time, call a special joint meeting to resolve the issue.

3.3 Where the Parties are unable to resolve a dispute, either party may request that a facilitator be used to explore dispute resolution options. Options for seeking the involvement of a facilitator include the Chairperson of the Implementation Monitoring Committee established under the *Manitoba Treaty Land Entitlement Framework Agreement (1997)* or from federal and/or provincial government departments appropriate to the subject matter in dispute.

#### Article 4 - Living Document

4.1 This is intended to be a living document, subject to change from time to time and renewal following the respective electioncycles.

4.2 Any changes to this document must be mutually agreed to by theParties.

#### Article 5 - Appended Agreements

5.1 To the extent that the interactions between the Parties require formal contractual arrangements to provide for specific programs and/or services delivered by one party for the benefit of the other in exchange for appropriate consideration, those contractual arrangements may be appended to this document.

#### Article 6 - Appended Agreements

Signatures...

## FREQUENTLY ASKED QUESTIONS

## **FREQUENTLY ASKED QUESTIONS**

### **A. Historical and Current Context of Treaty Land Entitlement**

#### **1. What is Treaty Land Entitlement (TLE)?**

TLE represents the Crown's obligation to provide outstanding land promised under Treaty. Of the 63 First Nations in Manitoba, 58 entered into Treaty with the Crown between 1871 and 1910. The Treaties were pursued by the Crown, in accordance with the legal principles established by the Royal Proclamation of 1763<sup>1</sup>, to open the territory for immigration in exchange for Treaty promises, including the provision of a specified quantum of land that would be set apart and reserved for the respective First Nations. However, through time it became apparent that some First Nations had not received the agreed to quantum of reserve land. To remedy the Treaty implementation deficiency, Canada entered into TLE Settlement Agreements between 1994 and 2008 with the 29 Manitoba First Nations that had recognized outstanding TLE. Because six of those Agreements have yet to be ratified by the respective First Nations, there are currently 23 signed and ratified TLE Settlement Agreements in various stages of implementation.

<sup>1</sup> [http://www.solon.org/Constitutions/Canada/English/PreConfederation/rp\\_1763.html](http://www.solon.org/Constitutions/Canada/English/PreConfederation/rp_1763.html)

#### **2. Why is Manitoba involved in the TLE process?**

Manitoba's boundaries were expanded in 1930 in accordance with the *Manitoba Natural Resources Transfer Agreement*<sup>2</sup> (NRTA), and section 11 of the NRTA stipulates that Manitoba would from time to time transfer unoccupied Crown land to Canada as necessary to enable Canada to fulfil its Treaty obligations. As a result, Manitoba is a signatory to some of those TLE Settlement Agreements, or there is a bilateral agreement between Canada and Manitoba to support the corresponding bilateral agreement between Canada and the First Nation.

<sup>2</sup> [http://web2.gov.mb.ca/laws/statutes/ccsm/\\_pdf.php?cap=n30](http://web2.gov.mb.ca/laws/statutes/ccsm/_pdf.php?cap=n30)

#### **3. Why have the Dakota First Nations not entered into Treaty?**

There are nine Dakota First Nations in Canada, five in Manitoba and four in Saskatchewan. The fact that these First Nations have not entered into Treaty is an ongoing debate with Canada. In summary, the Canadian government has viewed the Dakota as American Indians who came to Canada in the 1860s as refugees; alternatively, the Dakota view southwest Manitoba, and extending into Saskatchewan, as the northern part of their traditional territory, and as such believe they have unceded Aboriginal title and rights to the area. At this time, it cannot be predicted when this debate will be resolved. However, there is significant archaeological evidence to support the Dakota assertion as well as a Treaty between the Dakota and Anishinaabe in Manitoba regarding use and occupation of Anishinaabe controlled land in 1840<sup>3</sup>. The Sioux Valley Dakota Nation negotiated and entered into a self-government agreement with Canada which was ratified in Parliament through the *Sioux Valley Dakota Nation Governance Act*<sup>4</sup> in 2014.

<sup>3</sup>Dakota Treaty?

<sup>4</sup>[http://laws-lois.justice.gc.ca/PDF/2014\\_1.pdf](http://laws-lois.justice.gc.ca/PDF/2014_1.pdf)

#### 4. How much land is involved in implementing TLE Agreements in Manitoba?

Manitoba encompasses over 160 million acres. Full implementation of all 29 Manitoba TLE Agreements would represent a maximum of less than 1% of Manitoba's land base. The entitlement adds up to a maximum of 1.45 million acres of land that could be set apart as reserve if all 29 Entitlement First Nations select and/or acquire all of the land potentially available under those agreements. To date, less than 575,000 acres have become reserve, meaning that about 40% of the land available under the agreements has been set apart as reserve.

#### 5. What types of TLE Settlement Agreements exist in Manitoba?

There are four different types of TLE Settlement Agreements<sup>5</sup> in Manitoba:

- a. The four Island Lake area First Nations of Garden Hill, Red Sucker Lake, St. Theresa Point and Wasagamack all signed agreements based on a template in March 1994;
- b. Three Treaty No.1 First Nations of Long Plain, Swan Lake and Roseau River all signed similar agreements, with certain unique provisions, between August 1994 and March 1996;
- c. Nineteen First Nations (expanded to 21 due to band division) signed a Framework Agreement in May 1997, and subsequently 15 have signed ratification agreements;
- d. Canada ratified an individual agreement with Peguis First Nation in April 2008.

As a result, there exists some variation in the requirements to implement the individual agreements. Generally, however, each agreement specifies a quantum of land that the Entitlement First Nation may either purchase on a willing buyer-willing seller basis, or select from unoccupied Crown land, or both in some cases, within an agreed to acquisition and/or selection area, and then submit the proposal to Canada and Manitoba for the land to be set apart as a reserve. All of the above agreements are available at:

<sup>5</sup> <http://www.gov.mb.ca/ana/resources/agreements.html>

### **B. TLE Process**

#### 6. What steps are required for Manitoba to transfer jurisdiction to Canada as part of the TLE Process?

The first step in the TLE process is for an Entitlement First Nation to purchase land or select Crown Land according to the provisions of the respective TLE Agreement. Once this has occurred, Third Party Interests on the land must be addressed. Some TLE Agreements define Third Party Interests and may specify methods for dealing with them; however, generally, a Third Party Interest means any interest, right or estate of any nature held in or to land by a Third Party, or any right of use or occupation of the land, other than outright ownership. Before the process continues, these interests must be replaced, discharged or accommodated in any other way that the parties can agree to allow for transfer from one jurisdiction to another. Once all interests are addressed, and the survey and environmental site assessment requirements are fulfilled, the land is transferred from provincial to federal jurisdiction through a Provincial Order in Council.



## 7. What is required for Canada to set apart land as reserve?

Setting apart land as reserve is known as an Addition to Reserve (ATR) and may be completed to fulfil a legal obligation such as a TLE agreement, or may be justified based on other social or economic considerations. The ATR process is a due diligence process ensuring that all Third Party Interests and environmental site conditions are understood and addressed so that the land can be transferred from provincial to federal jurisdiction. Once all the process steps are completed, the land may be set apart as a reserve through either a Ministerial Order or a Governor in Council Order. First Nations who have jurisdiction of their reserve lands in accordance with a Land Code under the First Nation Land Management regime have an extra step to sign a Land Transfer Agreement with Canada to eliminate application of the *Indian Act* land management regime in favor of the First Nation's Land Code. Certain steps within the entire process are dictated by specific terms of the respective settlement agreements or, in the absence of such provisions, by the Additions to Reserve/Reserve Creation Policy Directive (the most recent version approved in July 2016)<sup>6</sup> with the *Manitoba Claim Settlements Implementation Act*<sup>7</sup> and the *Indian Act*<sup>8</sup> providing various legal authorities to support the process.

<sup>6</sup> <http://www.aadnc-aandc.gc.ca/eng/1465827292799/1465827347934#mm>

<sup>7</sup> <http://laws-lois.justice.gc.ca/PDF/M-0.53.pdf>

<sup>8</sup> <http://laws-lois.justice.gc.ca/PDF/I-5.pdf>

## 8. Why is it taking so long to implement TLE Agreements in Manitoba?

There are many reasons, and various parties would likely highlight different site-specific complications or process deficiencies as being the prime factors. In 2005<sup>9</sup> and 2009<sup>10</sup>, the Auditor General of Canada reported on several deficiencies found in Manitoba Region's management of the files. These included the planning and budgeting of surveys and environmental site assessments. These issues seem to have been largely addressed, and there have also been improvements in Canada, Manitoba and First Nations working together on the individual ATR proposals through the Implementation Monitoring Committee which was established under the 1997 TLE Framework Agreement<sup>11</sup>. However, the Auditor General also observed that there have been significant delays resulting from the inability to address Third Party Interests. Third Party Interests are the existing rights and interests of third parties in or to the proposed reserve lands and may include utility encumbrances (eg. power, telephone and natural gas lines), resource allocations (timber and mining rights), and access rights of way.

The challenge with Third Party Interests remains a significant impediment, but there are also other process steps that have proven to be difficult to implement in certain situations, including the duty to consult other aboriginal groups. In addition, the House of Commons Standing Committee on Aboriginal Affairs and Northern Development stated in its March 2014 report entitled "Study of Land Management and Sustainable Economic Development on First Nation Reserve Lands<sup>12</sup>," that "the Department's current ATR policy is difficult to navigate, and includes unnecessary steps that can lead to long delays and confusion." The report includes 5 recommendations to address the challenges and streamline the process, but these have not yet been fully implemented; however, a new Additions to Reserve/Reserve Creation Policy Directive<sup>13</sup> was approved by Canada in July 2016.

<sup>9</sup> <http://www.oag-bvg.gc.ca/internet/docs/20051107ce.pdf>

<sup>10</sup> [http://www.environmental-auditing.org/Portals/0/AuditFiles/Canada\\_f\\_eng\\_Treaty%20Land%20Entitlement%20Obligations.pdf](http://www.environmental-auditing.org/Portals/0/AuditFiles/Canada_f_eng_Treaty%20Land%20Entitlement%20Obligations.pdf)

<sup>11</sup> <http://www.gov.mb.ca/ana/resources/pubs/tle%20framework%20agreement%201997.pdf>

<sup>12</sup> <http://www.parl.gc.ca/content/hoc/Committee/412/AANO/Reports/RP6482573/AANOrp04/aanorp04-e.pdf>

<sup>13</sup> <http://www.aadnc-aandc.gc.ca/eng/1465827292799/1465827347934#mm>

### **C. Characteristics of Reserve Land**

#### **9. How is reserve land different from other lands in Canada?**

Physically, there are no differences between reserve and non-reserve lands in Canada; however, there are ownership and jurisdictional differences. In general, the *Indian Act*<sup>14</sup> applies on-reserve, but there are various beyond-the-*Indian Act* legal regimes, such as the *First Nation Lands Management Act*<sup>15</sup> that First Nations may opt into as an alternative to the *Indian Act*. Indian Reserve is defined in s.2 of the *Indian Act* as "a tract of land, the legal title to which is vested in Her Majesty that has been set apart by Her Majesty for the use and benefit of a band." Under s.91(24) of Canada's *Constitution Act*<sup>16</sup>, the Parliament of Canada has jurisdiction for "Indians, and Lands reserved for the Indians." However, by virtue of s.88 of the *Indian Act*, provincial laws of general application may apply on-reserve as long as those laws do not apply directly to land nor make any distinction for "Indians," nor conflict with any federal law or band by-law that applies on-reserve.

<sup>14</sup> <http://laws-lois.justice.gc.ca/PDF/I-5.pdf>

<sup>15</sup> <http://laws-lois.justice.gc.ca/PDF/F-11.8.pdf>

<sup>16</sup> <http://laws-lois.justice.gc.ca/eng/Const/index.html>

#### **10. How is reserve land different from other federal lands in Canada?**

Besides reserve lands, there are other federal lands throughout Canada including National Parks, Military Bases, RCMP Detachments and other federal buildings such as old Canada Post outlets. With the exception of reserve land and national parks, the title to federal lands tends to remain within provincial land registries, and generally the management of those lands occurs through the *Federal Real Property and Federal Immovables Act*<sup>17</sup>. The Crown holds both Indian Reserve and National Parks "in trust," for a First Nation and for the Canadian People respectively, and provincial land registries do not include the title to these lands nor the individual transactions on them (although there are exceptions with some leasehold interests in National Parks being registered in provincial land registries). Indian reserve lands are managed in accordance with the *Indian Act*<sup>18</sup>, the First Nation Land Management regime or a self-government regime. National Parks are managed in accordance with the *Canada National Parks Act*<sup>19</sup>. The laws referred to above may be found at:

<sup>17</sup> <http://laws-lois.justice.gc.ca/PDF/F-8.4.pdf>

<sup>18</sup> <http://laws-lois.justice.gc.ca/PDF/I-5.pdf>

<sup>19</sup> <http://laws-lois.justice.gc.ca/PDF/N-14.01.pdf>

### **11. Can First Nation Governments implement a tax regime on-reserve?**

Yes, once land is set apart as reserve, the First Nation Government becomes the sole taxing authority, which can be exercised through the regime established under the *First Nations Fiscal Management Act*<sup>20</sup> or s.83 of the *Indian Act*<sup>21</sup>, and by working with the First Nation Tax Commission<sup>22</sup>.

<sup>20</sup><http://laws-lois.justice.gc.ca/PDF/F-11.67.pdf>

<sup>21</sup><http://laws-lois.justice.gc.ca/PDF/I-5.pdf>

<sup>22</sup><http://fntc.ca/>

### **12. Does a Municipal Government have the authority to tax reserve land that, prior to being set apart as reserve, was located within the boundaries of the municipality?**

No, Municipal Governments do not have the authority to tax reserve land. First Nation Governments have jurisdiction and taxation authority on reserve land.

### **13. How can Municipal Governments recover costs related to a loss in municipal tax revenues as a result of land being set apart as Reserve under the TLE process?**

One of the steps in the ATR process is the determination of what taxes apply to the land before it is set apart as reserve, and what component if any may need to be addressed through the negotiation of a Municipal Development and Services Agreement (MDSA). In general, if a Municipal Government is providing services in relation to that land and/or any facilities on it (eg. water and sewer, snow clearing, emergency response), and those services will be required after the land is set apart as reserve, then the First Nation Government would be responsible to continue to pay for those services. However, if those services will no longer be required, then there may be no requirement for such an agreement, although a recognized best practice is for a protocol to be established between the First Nation Government and the Municipal Government to govern their ongoing relationship. In addition, eligible municipalities whose revenue has been impacted by the setting apart of new reserves under Manitoba TLE Agreements may apply to the Province for funding support<sup>23</sup>. Compensation will be paid upon approval by the Province to those municipalities demonstrating a net loss in municipal tax revenues, as a result of land being set apart as reserve, in an amount equivalent to five times (5x) the annual net municipal tax loss at the time of conversion.

<sup>23</sup>[http://www.gov.mb.ca/ana/interest/mtlc/mtlc\\_guidelines.html](http://www.gov.mb.ca/ana/interest/mtlc/mtlc_guidelines.html)

### **14. How do school taxes apply on-reserve?**

Municipal Governments have no jurisdiction to tax reserve land, including for education. On reserve land, First Nation Governments work with Canada respecting the community educational needs. Options available include Tuition Agreements between First Nations and School Districts respecting individual First Nation citizens enrolled in those facilities.

### **15. What are the requirements for an MDSA within a municipality?**

The requirements depend on the specific situation respecting the prospective reserve land in question and could change through time as requirements change due to new development. For example, an MDSA may not be required for land having no service requirements. In that case, the land may be set apart as a reserve without an MDSA, recognizing that any services required for future development would need to be addressed as part of the development planning process and potentially provided through a future MDSA negotiated between the First Nation Government and the Municipal Government. However, land selected or acquired within an urban setting may require some or even the entire suite of services that a Municipal Government provides. In that context, an ATR would typically require an MDSA to be negotiated before the land could be set apart as a reserve. Further references for MSDAs are available at:

<sup>24</sup>[http://www.gov.mb.ca/ana/interest/manual\\_mdsa/pubs/manual.pdf](http://www.gov.mb.ca/ana/interest/manual_mdsa/pubs/manual.pdf)

<sup>25</sup>[http://www.urbansystems.ca/wp-content/uploads/2014/09/Pathways-to-Service-Delivery\\_v18\\_Comp.pdf](http://www.urbansystems.ca/wp-content/uploads/2014/09/Pathways-to-Service-Delivery_v18_Comp.pdf)

<sup>26</sup>[http://www.fcm.ca/Documents/tools/cipp/CIPP\\_Toolkit\\_Unit\\_3\\_EN.pdf](http://www.fcm.ca/Documents/tools/cipp/CIPP_Toolkit_Unit_3_EN.pdf)

### **16. What roles and responsibilities do Municipal Governments have in the TLE process?**

Entitlement First Nations may select Crown land or purchase privately owned lands in accordance with the provisions of the applicable TLE Agreement, with the intent of requesting that the land be set apart as Reserve. Crown land selected within a municipality is a land transaction between the First Nation and the Crown (Province of Manitoba or Government of Canada). Land purchased in a municipality is a transaction between the First Nation and the seller (private owner, municipality, etc.). Under both scenarios, the TLE Agreements outline specific principles and a notification process for Municipal Governments to express any concerns about the land being set apart as Reserve and for First Nations to confirm or not if they will require services from the Municipal Government. As part of the process to set apart land as reserve, there is a transition whereby any previously existing municipal jurisdiction is replaced by First Nation and federal jurisdiction.

### **17. Why do First Nations wish to have reserve land set apart within municipalities?**

Historically, original reserve land settlements were geographically located in areas related to traditional pursuits (eg. hunting and fishing) rather than areas conducive for modern economic development activities. In selecting or acquiring lands to fulfil TLE, First Nations are increasingly looking to support economic development and generate revenue for community development. These types of land transactions provide opportunity to establish good neighbor relations and partnerships with the local governments, businesses and the general public. These business models may also create major fiscal and economic benefits for First Nation and Municipal Governments, as well as the people they both serve. Additionally, some municipalities arose within the traditional territory of a First Nation or within a previous First Nation settlement area. TLE provides opportunity for First Nations to re-establish access and jurisdiction within their previously held areas.

**18. What benefits may accrue due to reserve being set apart in a municipality?**

Numerous reports<sup>27,28 &29</sup> are available that document benefits that have accrued to both First Nation and non-First Nation citizens due to lands being set apart as reserve within a municipality. Of particular note is the City of Saskatoon which, since 1988, has welcomed six reserves within its planning district including five within city limits. Additionally, there are another ten proposed reserves in process. Saskatoon<sup>30</sup> indicates that the benefits for the city include investment in building new businesses or refurbishing and renewing existing businesses, and that the City also benefits indirectly by other investments in the community (e.g. job creation and the economic spinoffs from those jobs). Furthermore, reserve development has strengthened the First Nations community in Saskatoon which "builds a stronger and more inclusive city."

<sup>27</sup>[http://sp.fng.ca/fntc/fntcweb/ATR\\_tax\\_loss\\_2015\\_final.pdf](http://sp.fng.ca/fntc/fntcweb/ATR_tax_loss_2015_final.pdf)

<sup>28</sup><http://www.naedb-cndea.com/reports/IMPROVING-THE-ECONOMIC-SUCCESS-OF-URBAN-ADDITIONS-TO-RESERVES.pdf>

<sup>29</sup><http://www.naedb-cndea.com/reports/improving-the-economic-success-of-urban-atr.pdf>

<sup>30</sup><https://www.saskatoon.ca/business-development/planning/regional-planning/urban-reserves-treaty-land-entitlement>

**19. What is the Manitoba experience with reserves being set apart in a municipality?**

Up until recently, the Manitoba experience was limited, and included Portage La Prairie (Long Plain) and Headingly (Swan Lake); however, there have been reserves set apart recently in Winnipeg (Long Plain), Swan River (Sapotawayak), Thompson (Nisichawayasihk) and Birtle (Birdtail Sioux) with various others in progress.

**20. What are recommended best practices for Municipal Governments to follow when TLE land is selected or acquired within the municipality?**

Once a notice of selection or acquisition is received, there are a number of steps that a Municipal Government may wish to implement. These include meeting with the First Nation Government in order to understand the proposal and to forge a positive working relationship. Seek to understand what municipal services may be required initially, and whether there are any associated development plans. To the extent possible, view the proposal as an opportunity to partner with another government for the betterment of your respective constituents. Questions about process may be referred to Manitoba Indigenous and Municipal Relations. Information about the proposal should be shared with the public, ensuring accuracy and appropriate context.





***For more information on Treaty Land Entitlement in Manitoba, please contact:***

**Manitoba Indigenous and Municipal Relations**  
Agreements Management & Aboriginal Consultations Branch  
204-945-2510  
[www.gov.mb.ca/ana](http://www.gov.mb.ca/ana)

**Indigenous and Northern Affairs Canada**  
Additions to Reserves, Lands & Economic Development  
1-800-567-9604  
[www.aadnc-aandc.gc.ca](http://www.aadnc-aandc.gc.ca)

**Treaty Land Entitlement Committee of Manitoba Inc.**  
204-943-8532  
[www.tlec.ca](http://www.tlec.ca)

**Association of Manitoba Municipalities**  
204-857-8666  
[www.amm.mb.ca](http://www.amm.mb.ca)